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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/372,009	08/11/1999	MASAO FUKUDA	8005.165US0	9911

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BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

EXAMINER

HARMON, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 07/15/2003

36

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/372,009

Applicant(s)

FUKUDA ET AL

Examiner

Christopher R Harmon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuda (US 5,125,217) in view of Grimshaw et al. (US 5,314,563).

Fukuda discloses a method of longitudinally sealing bags by moving heater unit 55 to and from a retracted position provided by air cylinder 78 operated by a "higher pressure" (figure 8). In order to seal the bag servo-motor 45 is adjusted to control the pressure applied on film material S; see column 6, lines 48-51. Fukuda recognizes "a person skilled in the art will realize that different combinations of motion-communicating... means can be substituted. Replacing communicating means of the servo-motor 45 with an additional air cylinder would have been obvious to one of ordinary skill in the art for effectively controlling the position and pressure of the heated belt 55. Fukuda discloses "different combinations of motion-communicating and torque-communicating means can be substituted." (column 8, lines 34-36).

Regarding the specified sealing pressure, Fukuda recognizes "the sealing pressure on the bag-making material can be controlled easily and accurately" (column 2, lines 6-10), however does not disclose using higher and lower air pressures. Grimshaw et al.

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teach controlling an air cylinder by variable pressure for controlling the compressive force of an element against another, which would indicate higher and lower pressures.

"In the preferred embodiment of the invention, air cylinder 119 is provided with a variable flow control restrictor 119b, to govern the speed of its piston rod 119a in moving to the right. This helps to ensure that tail compaction roller 138 and its associated support linkage will align with the work surface 128 as air cylinder 145 powers the roller 138 to its advanced position... Extending piston rod 144 from air cylinder 145 moves tail compaction roller 138 into compaction engagement with the tail of composite tape 136. When at the tail compaction position compaction roller 138 can be disengaged from tape 136 and moved to a stored or retracted position by retracting piston 144." (column 11, lines 38-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Grimshaw et al. in the invention to Fukuda in order to control the compressive force accurately.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kreager (US 4,555,289) discloses specific operations of controlling/regulating air pressures to different sources. Fukuda et al. (US 5,743,066) recognize thickness as a variable to consider (column 2, lines 61-63). Fukuda (US 5,347,795) previously discloses that it is well known to use variable pressure for operating cylinders and thus compressive force for transverse sealing operations, but would seem to apply to longitudinal operations as well. Bachman

(US 3,872,876) teaches controlling an air cylinder by separating control air pressure and working air pressure.

Response to Arguments

4. Applicant's arguments filed 7/9/03 have been fully considered but they are not persuasive. The argument that Fukuda does not "even hint at" controlling the pressure of the heating unit is clearly misstated. Fukuda recognizes controlling the pressure applied to the web to a specified or desired pressure (see above) only not with an air cylinder. In response to applicant's argument that Grimshaw could not be incorporated in the invention of Fukuda, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703- 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ch
July 14, 2003



EUGENE KIM
PRIMARY EXAMINER